

REMARKS

Claims 1-33 are pending in the present application. Applicants note with appreciation the indication of allowable subject matter with respect to dependent claims 2, 3, 5-10, 13 and 14 and the allowance of claims 16-33. Reexamination and reconsideration are respectfully requested.

The Examiner rejected claims 1, 4, 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Neuman (U.S. Pub. No. 2003/0103076) in view of Murakami (U.S. Pat. No. 4,594,930). Claim 15 was rejected under § 103(a) as being unpatentable over Neuman in view of Murakami and Hagiwara et al. (U.S. Pat. No. 6,750389 B2). The rejections are respectfully traversed.

The present invention is directed to a recorder for recording a performance of music data performed in ensemble with a playback of a music passage. The music data of the performance, for example, can be MIDI while the music passage can be audio data from a CD. The recorder has a data processing unit that extracts reference characteristic data from the music passage from the CD. It then forms a file with music data of the performance, the reference characteristic data and time data. Because the reference characteristic data is stored in a file, it can be used to synchronize the performance of the music data in another playback with another music passage, such as with a different version of the same CD.

Claim 1 recites extracting “pieces of reference characteristic data representative of an audio waveform expressing said music passage from said pieces of said second sort of music data for synchronization between said performance and another music passage produced in another playback” and forming “said pieces of said first sort of music data, said pieces of reference characteristic data and pieces of time data representative of timing . . . into said music file . . .”

The Examiner acknowledges that Neuman fails to disclose extracting the recited reference characteristic data. As a result, Neuman also fails to disclose forming a file with reference characteristic data. To overcome these deficiencies, the Examiner has cited Murakami. Applicants

respectfully submit that Murakami does not make up for the deficiencies of Neuman, because it fails to disclose storing the reference signal in a music file.

Fig. 1 of Murakami illustrates a system for synchronizing the playback rates of a plurality of music sources such as 200a and 200b. The signals from the sources are analyzed, and the control system 100 regulates the playback rates of music sources 200a and 200b "so as to run both music sources 200a and 200b with a constant phase difference established between the beats contained in the music signals reproduced therefrom." (See Col. 2, line 64 to Col. 3, line 5). Fig. 1 illustrates that the signals having the phase difference are output to a utility device, such as a loudspeaker or tape recorder. (See also Col. 3, lines 22-25.) Thus, all that is output and recorded are the signals after phase control is applied. There is no disclosure or suggestion of recording reference characteristic data on the tape recorder. In contrast, claim 1 clearly recites forming "said pieces of said first sort of music data, *said pieces of reference characteristic data* and pieces of time data representative of timing . . . into said music file." Because both Neuman and Murakami fail to disclose or suggest this recitation, Applicants respectfully submit that claims 1, 4, 11 and 12 are patentable over Neuman and Murakami for at least these reasons.

As discussed above, the Examiner rejected claim 15 in view of Neuman, Murakami and Hagiwara. Hagiwara does not make up for the deficiencies of Neuman and Murakami as it is cited solely for its disclosure relating to an automatic player piano. Accordingly, Applicants respectfully submit that claim 15 is patentable over Neuman, Murakami and Hagiwara.

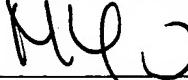
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032040000.

Dated: September 5, 2006

Respectfully submitted,

By 
Mehran Arjomand

Registration No.: 48,231
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5200